

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No: 28148 of 2005

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DATED: 02.01.2006

Between:

M/s. Sarda Agro Oils Limited,
Rep., by its Director, Ashok Sarda.

... PETITIONER

AND

The Regional Provident Commissioner-II,
Employees Provident Fund Organisation,
Sub Regional Office, Opp: Kambal Tank
Rajamandry, A.P. & another.

... RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

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ORDER:-

The writ petition is filed to declare the action of the respondents in violating the petitioner's fundamental rights guaranteed under Article 14, 19(1)(g) & 300-A of the Constitution of India as illegal, arbitrary and without jurisdiction and to set aside the proceedings, dated 13.12.2005, passed by the 1st respondent.

Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the 1st respondent.

Learned counsel for the petitioner submits that the petitioner is a company incorporated under the provisions of Indian Companies Act 1956 having its registered office at Satamrai, Gaganpahad, Ranga Reddy District. Petitioner is the manufacturer of Edible Refined Oils. It also established another unit at Kakinada in the year 2003 and commercial production was commenced from April 2004. He also submitted that the petitioner's company was registered with the Regional Provident Fund Commissioner, Office of the Provident Commissioner, Hyderabad and got P.F. Code No.AP/HY/39575.

While so, the 1st respondent initiated enquiry under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act 1952 (for short "the Act") and issued summons on 15.06.2005 calling upon the petitioner company to produce certain records and other particulars and to appear before the authorized representative on 30.06.2005. Thereafter, enquiry was conducted on 30.11.2005, but the petitioner could not produce relevant records and at the request of the petitioner it was adjourned to 09.12.2005. On 09.12.2005 none appeared on behalf of the petitioner and therefore, another notice dated 13.12.2005 was issued to the petitioner as a last chance to represent the case along with all required records mentioned in the earlier notice issued under Section 7A of the Act either personally or through a representative duly authorised by the petitioner on 09.01.2006 and that if the petitioner fails to represent its case on that date, necessary assessment order will be passed without giving any further notice. Having issued notice, dated 13.12.2005, by the 1st respondent, the 2nd respondent attached the Bank Account of

the petitioner until the proceedings under Section 7A of the Act is concluded. It is stated that even before the alleged contributions are determined under Section 7A, attaching the account of the petitioner is illegal and sustained.

Inasmuch as the amount payable by the petitioner has not yet been determined, I am of the opinion that the respondent cannot take any coercive steps.

Having regard to the facts and circumstances of the case, the impugned proceedings are set-aside and the 1st respondent is directed to hear the petitioner on 09.01.2006 and pass appropriate orders. Till then there shall not be any attachment of the Bank Account of the petitioner.

Accordingly, the writ petition is disposed of. No order as to costs.

02.01.2006

Note:- Issue CC tomorrow.

B/o.

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